



Commonwealth
of Massachusetts

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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

March 19, 1998
AO-98-06

Michael F. Malone, Superintendent
Plainville Public Schools
Plainville, MA 02762

Re: Distribution of information regarding April 6 election

Dear Mr. Malone:

This letter is in response to your fax requesting an opinion regarding the distribution of information in connection with the upcoming April 6 election.

Facts

You have stated that on April 6 the voters in Plainville will vote on a ballot question regarding a school building project. Approximately every two months you send out a newsletter to parents informing them of school issues. You have asked several questions, some of which relate to the newsletter.

Questions

- (1) May I mention in my newsletter the date of the election and the fact that there is a debt override for the school project on the ballot in the April 6 election?
- (2) May I refer those parents with questions to call my office?
- (3) May I make public documents regarding the project available to parents who request such information?
- (4) May I display a rendering of the project, produced by the architect, in school lobbies, with a small card on the displays noting the date of the election?

Answer

Yes, as to each question, assuming that these actions will not involve the solicitation of contributions and that equal access to municipal buildings and grounds would be provided to proponents and opponents, if requested.

Discussion

In Anderson v. City of Boston, 376 Mass. 178 (1978), the Supreme Judicial Court concluded that the City of Boston could not appropriate funds, or use funds previously appropriated for other purposes, to influence a ballot question submitted to the voters at a state election.

Accordingly, this office has concluded that governmental entities may not expend public resources, including paid time of public employees (such as the time of teachers), or contribute anything of value in support of or opposition to a state or local ballot question. See interpretive bulletin IB-91-01 (a copy of which is enclosed). Therefore, although the newsletter may be used to notify parents of the date of the election and the fact that there is a debt override for the school project on the ballot, it may not be used to advocate a particular vote on the ballot question.

Although the newsletter may briefly state the title or subject of the ballot question, it may not be used to summarize the reason or effect of the ballot question or provide information regarding the “pros and cons” of the question. Even if such information is intended to be objective and factual (it is “informational” rather than “advocacy”) it may not be distributed using public resources without legislative authority. See IB-91-01. Only three municipalities have obtained such legislation: Newton, Cambridge and Sudbury.

The campaign finance law does not prohibit the distribution of campaign flyers, which do not solicit contributions, in libraries, school grounds, town halls or other public buildings. In Anderson the court stated that the use of such resources would be proper, if “*each side were given equal representation and access.*” 376 Mass. at 200 (emphasis added). Equal access means that proponents and opponents who request and use space in municipal buildings or on school grounds must be provided space “on the same terms and conditions.” See IB-91-01. Similarly, an architect’s display of the project may be placed in school lobbies, but only if those opposing the project have the opportunity upon request to place their displays in school lobbies on the same terms and conditions.

Public documents (including information regarding the building project) must be made available to parents requesting the documents in accordance with the public records law.

This opinion is issued solely within the context of the campaign finance law and is provided on the basis of representations in your letter.

This office appreciates your interest in the campaign finance law and encourages you to contact us in the future if you have further questions.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

Michael J. Sullivan
Director